

October 20, 2010, LUARC Commission Meeting

LUARCC members present: John H. Fisher, III, Chair, Mayor Gary Passanante, Steve Cozza and Robert F. Casey. Absent were: Regina Egea, BettyLou DeCroce and Marvin Reed

Minutes of the September 23, 2010 could not be approved due to the lack of a quorum vote and will be placed on next months agenda.

Executive Director's Report

Acting Executive Director informed the Commission that there still is not an easy way to come up with the data for "implied" services (discussed at the last Commission meeting). Since these shared activities are not reflected in the budgets as we would like to see, it would be beneficial to reach out to a handful of municipalities i.e. Fanwood or Scotch Plains to ask very specific questions as to what off-budget services are being shared, what savings are realized, how the arrangements are setup and why they are not indicated in the budgets. It is known that there are either costs or savings implications associated with these services but they are just not recorded. The Acting Executive Director (AED) will reach out to Camden County Transformation Initiative to see if there are other strong candidates (municipalities) to poll. The AED also noted that he has been following up with Mr. Bezich of Camden County College on the Initiative, which he presented to the Commission at the last meeting. Additional and more specific information is expected from

The minimum size police force report was posted to the website.

The AED handed out charts on municipalities that did not have any police coverage, municipalities not covered by State Police and State Police coverage in terms of distance and population. (See attached charts.)

Improvements to the charts were suggested including: adding road miles and population density. It was also suggested that staff should try to obtain the total calls for service related to each town served by the State Police.

Information on the power of the State Police was given to Commission members. The section of the 53:2-1 states " , shall primarily be employed in furnishing adequate police protection to the inhabitants of rural sections." The definition of "rural" could not be found. Another document on power of municipal police was given to Commission members (documents are attached).

One of the members was concerned about what happens, if a municipality does not have the ability to create a police force and if the State Police decline to come in. Does any part of Statute address this? Who protects the citizens? For example: recently, Woodlyn lost its contracted police coverage with a municipal partner and receives no State Police coverage. If they had not created a new Police Department

in time for the end of the contracted service, who would respond to emergency calls? One of the members is going to research this issue including reaching out to the State Chiefs of Police and report back to the Commission.

Commissioner Casey examined potential issues involving the development and implementation of a shared service agreement involving the construction code function. With much research, through the polling of some municipalities, reviewing of the Regulations of the Division of Codes and Standards and Civil Service and the 2007 Statute on Shared Services, it was learned that shared service in the construction code function is occurring within guidelines but there are some impediments that affect the willingness of municipal governments to proceed.

Testimony was heard from Henry Underhill former administrator in Sparta: Mr. Underhill discussed Sparta and its experience with shared construction code services. Ogdensburg code work was taken over by Sparta through a shared services agreement. This relationship has worked well since Sparta surrounds Ogdensburg on three sides. However, when trying to work out a similar agreement with Byram, which is a town that shares only a small amount of its border with Sparta, there were logistics problems. There were also Civil Service issues in that Sparta would have to take on Byram employees instead of hiring Sparta's current provisional code personnel. These items put sharing of the construction code function on the back burner.

The discussion also focused on accessibility. In some cases construction codes offices have satellite offices where the officials go to the location to meet with the customers on certain days and certain times and then takes that information back to the main office. This is sometimes inconvenient to the customer. Another issue is "shopping of providers." If a town has been in a long-term shared service relationship for construction code officials, normal increases eventually cause salaries to become inflated in the provider municipality relative to the cost of new hires. The client town then looks for a less expensive way to carry out the construction code function and begins to shop around for a less expensive provider able to offer reduced costs through new hires to cover the clients need. Once found, town decides to go with new provider which then begins the layoff process for the old provider in that they do not need all the employees any longer because the business isn't there.

There are regulation issues imposed by the Division of Codes and Standards that towns must abide by; like having hearings to discuss taking over of function or sharing which then leads to contract reviews. There must also be a uniform fee structure if you are going to begin sharing services. So if one town is different than the other then the fees structure must be amended; usually, at the higher cost. Under the current law there must be one central location, however, you can have branch offices.

There are also regulation issues that the Civil Service Commission has that deal with layoff plans and also reemployment rights specifically for the civil service single

jurisdiction that are found in the 2007 shared service law. In N.J.S.A. 40A:65-11, if one town is taking over for the other (civil service employees), the redundant employees from the town that is being absorbed get put on a county-wide reemployment list. The reemployment list trumps any other list that may exist. This is not a problem for non-civil service jurisdictions. However, it can affect hiring in towns not party to the shared service arrangement. Also found in this section is the discussion on the severance option.

Senate 2024 (Kyrillos' Bill) and the identical Assembly Bill 2953 implement part of the Governor's "Tool Kit." This Bill rewrites Sections 65-11 and 65-19. Among other changes it eliminates the use of a county-wide reemployment list and substitutes a list for use by the jurisdiction from which the employee was laid off. It also eliminates certain severance conditions. The Bill also provides a 45 day notice for layoffs whenever one of the jurisdictions is civil service.

The Commission would like to do a letter to the legislature supporting certain sections of this proposed legislation. A motion directing the preparation and distribution to the Governor, Legislative Leadership and Bill Sponsors of a letter of support subject to the review and approval of the Commission Chair was made, moved and passed unanimously.

One of the Commission Members suggested that in order to operate a construction code office there should perhaps be a minimum number of permits or a population minimum to justify a code department.

The Commission Members discussed their role at the League of Municipalities and how they will deliver their presentation.

Public Comment - John Fry – Rutgers has students in a cap stone project. Mr. Fry would like access to data for the students to use in their work. At the last meeting, reference was made to data pulled from the 2009 budgets on existing shared service agreements. He asked if he could have a copy of that data.

STATE POLICE

53:2-1 Powers, duties; cooperation with other authorities.

53:2-1 The members of the State Police shall be subject to the call of the Governor. They shall be peace officers of the State, **shall primarily be employed in furnishing adequate police protection to the inhabitants of rural sections**, shall give first aid to the injured and succor the helpless, and shall have in general the same powers and authority as are conferred by law upon police officers and constables.

They shall have power to prevent crime, to pursue and apprehend offenders and to obtain legal evidence necessary to insure the conviction of such offenders in the courts. They shall have power to execute any lawful warrant or order of arrest issued against any person, and to make arrests without warrant for violations of the law committed in their presence, and for felonies committed the same as are or may be authorized by law for other peace officers.

They may co-operate with any other State department, or any State or local authority in detecting crime, apprehending criminals and preserving law and order; but the State Police shall not be used as a posse in any municipality except upon order of the Governor when requested by the governing body of such municipality; provided, however, that the Superintendent of State Police, or the person in charge thereof, shall, upon request made to him by the superintendent of elections of any county of this State, assign for use on any election day officers and troopers, not to exceed fifteen in number in any one county, to aid such superintendents of elections in the enforcement of the election laws of this State.

They may act as inspectors of motor vehicles and as wardens in the protection of the forests, and the fish and game of the State. With respect to enforcement of the provisions of the "New Jersey Alcoholic Beverage Control Act," Title 33 of the Revised Statutes, they shall have all the powers conferred upon "officers" pursuant to that title. They shall have the authority to investigate any offenses or violations occurring on the waters of this State, as defined in section 1 of P.L.1986, c.150 (C.53:1-11.10), and to stop and board a vessel in the waters of the State to determine whether the vessel complies with State and federal boating safety laws and shall have the power to order a vessel that does not comply with these laws to return immediately to shore. They shall have the authority, in accordance with applicable State and federal laws, rules and regulations, to take appropriate action as authorized by the United States Coast Guard to assist the United States Coast Guard in the enforcement of any safety and security zone established by the United States Coast Guard Captain of the Port for the Port of New York and New Jersey or the Port of Philadelphia. They shall have the authority to perform all of the duties of members of the State Capitol Police Force as defined in section 2 of P.L.1977, c.135 (C.52:17B-9.2).

Amended 1940, c.198; 1997, c.19, s.3; 2004, c.82, s.2.

MUNICIPAL POLICE

40A:14-118. Police force; creation and establishment; regulation; members; chief of police; powers and duties

The governing body of any municipality, by ordinance, may create and establish, as an executive and enforcement function of municipal government, a police force, whether as a department or as a division, bureau or other agency thereof, and provide for the maintenance, regulation and control thereof. Any such ordinance shall, in a manner consistent with the form of government adopted by the municipality and with general law, provide for a line of authority relating to the police function and for the adoption and promulgation by the appropriate authority of rules and regulations for the government of the force and for the discipline of its members. The ordinance may provide for the appointment of a chief of police and such members, officers and personnel as shall be deemed necessary, the determination of their terms of office, the fixing of their compensation and the prescription of their powers, functions and duties, all as the governing body shall deem necessary for the effective government of the force. Any such ordinance, or rules and regulations, shall provide that the chief of police, if such position is established, shall be the head of the police force and that he shall be directly responsible to the appropriate authority for the efficiency and routine day to day operations thereof, and that he shall, pursuant to policies established by the appropriate authority:

- a. Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the force and its officers and personnel;
- b. Have, exercise, and discharge the functions, powers and duties of the force;
- c. Prescribe the duties and assignments of all subordinates and other personnel;
- d. Delegate such of his authority as he may deem necessary for the efficient operation of the force to be exercised under his direction and supervision; and
- e. Report at least monthly to the appropriate authority in such form as shall be prescribed by such authority on the operation of the force during the preceding month, and make such other reports as may be requested by such authority.

As used in this section, "appropriate authority" means the mayor, manager, or such other appropriate executive or administrative officer, such as a full-time director of public safety, or the governing body or any designated committee or member thereof, or any municipal board or commission established by ordinance for such purposes, as shall be provided by ordinance in a manner consistent with the degree of separation of executive and administrative powers from the legislative powers provided for in the charter or form of government either adopted by the municipality or under which the governing body operates.

Except as provided herein, the municipal governing body and individual members thereof shall act in all matters relating to the police function in the municipality as a body, or through the appropriate authority if other than the governing body.

Nothing herein contained shall prevent the appointment by the governing body of committees or commissions to conduct investigations of the operation of the police force, and the delegation to such committees or commissions of such powers of inquiry as the governing body deems necessary or to conduct such hearing or investigation authorized by law. Nothing herein contained shall prevent the appropriate authority, or any executive or administrative officer charged with the general administrative responsibilities within the municipality, from examining at any time the operations of the police force or the performance of any officer or member thereof. In addition, nothing herein contained shall infringe on or limit the power or duty of the appropriate authority to act to provide for the health, safety or welfare of the municipality in an emergency situation through special emergency directives.

L.1971, c. 197, s. 1, eff. July 1, 1971. Amended by L.1981, c. 266, s. 1, eff. Aug. 24, 1981.